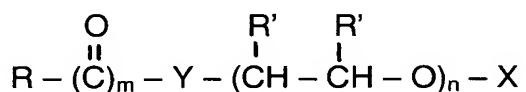


REMARKS

Claim Amendments

The above claim amendments have been made to provoke an interference with Salter Patent No. 6,590,030 ("the '030 patent"). The origin of, and support for, the new claims is described in detail below.

The structure of claim 1 of the '030 patent



(hereinafter "the '030 structure") is identical to the structure of claim 1 of the application (formula I on page 2 of the specification) when $m = 0$ and $Y = O$ in the '030 structure: $R^1 - (OA)_n - X$ (hereinafter "formula I"). R of the '030 structure is synonymous with R^1 of formula I.

The $-\overset{\text{R}'}{\underset{|}{\text{CH}}} - \overset{\text{R}'}{\underset{|}{\text{CH}}} - \text{O}-$ group of the '030 structure is equivalent to the oxyalkylene group of formula I $-OA-$. The X group is the same in the '030 structure and in formula I.

Support for the new claims can be found in the specification as follows.

Independent claims 14 and 29 are directed to "an aqueous dispersion." While this language is new to the claims of the present application, there is adequate support for this limitation in the specification. The specification describes the practice of the present invention in an "aqueous medium" at page 4, line 12. Further, the specification refers to separation of the polymer "from the aqueous phase" at page 9, line 23 and to "aqueous surfactant solutions" at page 10, lines 19-20. The specification also describes a "dispersed" phase, at page 2, line 16, "emulsion or other dispersion polymerization systems" at page 7, lines 18-19, and the lack of an attempt to "redisperse" the sedimented layer at page 16, lines 31-32.

The specification further describes the "polymeric particles" that form this aqueous dispersion. Disclosure of polymeric particles resulting from practice of the present invention may be found at page 1, line 32; page 2, lines 7, 8 and 9; page 7,

lines 12, 13, and 22; page 9, line 12; etc. Thus, the present claims directed to an aqueous dispersion are supported throughout the specification, which describes a dispersion of particles, and the use of an aqueous phase in practicing the present invention.

Claims 14 and 29 are further directed to a "stabilizing amount" of an "anionic alkoxylate surfactant." The anionic alkoxylate surfactant is supported throughout the specification, as well as in original claim 1. The use of a stabilizing amount is supported in the disclosure at page 2, lines 16-17; page 16, lines 29-30. In claims 14 and 27, the definition of formula I is found at page 2, lines 17-23. Finally, support for the use of oxyethylene, oxypropylene and oxybutylene is found at page 5, lines 19-21.

Support for claims 16, 17, 28 and 29 is found at page 4, lines 10-28. Support for claim 18 is found at page 1, line 1. Support for claim 19 is found at page 6, line 7. Support for claim 20 is found at page 6, lines 7-33.

Support for claim 21 is found at page 3, lines 16-28. This section describes the equivalent of the structure of claim 21 as corresponding to the two rearrangement products resulting from treatment of linoleyl alcohol with base, such as during alkoxylation.

Support for claim 22 is found at page 3, lines 20-24. Support for claims 23-24 is found at page 5, lines 19-24. Support for claim 25 is found at page 4, lines 19-23. Support for claim 26 is found at page 5, lines 13-14.

REQUEST FOR INTERFERENCE

A. Background of this Request and Overview

This Preliminary Amendment and Request for Interference is being filed in the present application to provoke an interference with Salter U.S. Patent No. 6,590,030. In furtherance thereof, the new pending claims 14-29 have been copied from or are patterned after claims 1-4, 6-11 and 16 of the '030 patent. The correspondence of the claims is as follows:

Present Application Claim Number	'030 Patent Claim Number
14	1
15	1
16	1
17	1
18	2
19	3
20	4
21	6
22	7
23	8
24	9
25	10
26	11
27	16
28	16
29	16

These claims are being copied within one year of the July 8, 2003 date on which the '030 patent was granted, and therefore meet the requirements of 35 U.S.C. §135(b).

Upon entry of this Amendment, claims 14-29 will be pending, of which claims 14, 16, 17 and 27 are independent. Support for new claims 14-29 can be found throughout the application as filed, as more specifically itemized below. It is respectfully submitted that no new matter has been introduced.

As will become apparent below, claims 14-17 are essentially the same as claim 1 of the '030 patent and the count proposed below. These claims are fully supported by the specification, and are entitled to an effective filing date of December 20, 1997. Since claim 1 of the '030 patent has been patented, at least claim 14 should therefore be allowable in this application. Moreover, inasmuch as the present application claims are entitled to an earlier effective filing date than the claims of the Salter '030 patent, the declaration of an interference between the present application and the Salter '030 patent is appropriate and is respectfully requested.

Present claims 14-29 have been patterned after '030 patent claims 1-4, 6-11 and 16. These claims are believed to be representative of the various embodiments of the invention claimed by Salter. It will also be demonstrated herein that all of the remaining claims 2-16 of the '030 patent (and thus present claims 15-29) are not patentably distinguishable from the proposed Count and therefore should be designated as corresponding to the Count.

In the view of the amendments and circumstances presented herein, it is respectfully submitted that present claims 14-29 are in condition for allowance in this application, and a notice to that effect and declaration of the requested interference are courteously solicited. Nevertheless, Applicants reserve the right to contest the validity of any and all claims during the course of the interference, and the copying of claims herein from the '030 patent should not be taken or construed as a concession or acknowledgement that any of such claims are patentable to Salter.

B. Application of Copied Claims to Specification

Pursuant to 37 C.F.R. §1.607(a)(5), Applicants have identified in the above Remarks where the disclosure supports new claims 14-29 in the present application.

C. Identification of Interfering Patent and Effective Filing Dates

Pursuant to 37 C.F.R. § 1.607(a)(1), Applicants seek to provoke an interference with Salter et al., U.S. Patent No. 6, 590,030, which issued on July 8, 2003. The '030 patent issued from U.S. Application Serial No. 09/924,597, which was filed on August 9, 2001, as a divisional application of U.S. Application Serial No. 09/485,186, filed August 6, 1999, as the National Stage of PCT Application No. PCT/AU98/00620. The PCT application claims priority from Australian Application PO 8462, filed on August 8, 1997. Accordingly, the '030 patent claims are entitled, at best, to an effective filing date of August 8, 1997 for priority purposes.

The present application was filed on April 15, 2004, but the claims are entitled to an effective filing date of at least December 20, 1997.

D. Proposed Count and Corresponding Claims

Pursuant to 37 C.F.R. §1.607(a)(2), Applicants propose the following Count:

Proposed Count:

An aqueous dispersion of polymeric particles wherein the dispersion is formed in the presence of a stabilizing amount of an anionic alkoxylate surfactant of formula I



wherein R' is a C₁₆₋₂₂ hydrocarbon chain having two or more double bonds, at least two of said double bonds being conjugated;

OA is selected from the group consisting of oxyethylene, oxypropylene and oxybutylene;

n is 2 to 60;

and X is an anionic group having at least one acidic hydrogen, or a salt thereof.

Alternative Proposed Count:

An aqueous dispersion of polymeric particles wherein the dispersion is formed in the presence of a stabilizing amount of an anionic alkoxylate surfactant of formula I



wherein R' is a C₁₆₋₂₂ hydrocarbon chain having two or more double bonds, at least two of said double bonds being conjugated;

OA is selected from the group consisting of oxyethylene, oxypropylene and oxybutylene;

n is 2 to 60; and

X is an anionic group selected from the group consisting of acids or salts of phosphate, sulphate, succinate, carboxymethyl, maleate, carboxyethyl, sulphoethyl, and sulfopropyl.

An alternative proposed Count is offered in the event it is determined that the proposed count would not be patentable.

E. Identification of Claims Corresponding To The Proposed Count

Pursuant to 37 C.F.R. §1.607(a)(3) and (4), the following claims of the '030 patent and of the present application are identified as corresponding to the proposed Count and alternative proposed Count:

1. Claims of the '030 Patent

- Claim 1 of the '030 patent corresponds substantially to both the proposed Count and the alternative proposed Count in that it is the same as, or is obvious in view of, the invention of the Count and alternative Count. Of the remaining claims of the '030 patent, claims 2-4, 6-11 and 16 correspond to the proposed Count and alternative Count in that they recite merely obvious variations of the invention of the proposed Count and alternative Count.

- Claim 2 further specifies addition polymerization;
- Claim 3 further specifies an ethylenically unsaturated monomer;
- Claim 4 further specifies a specific group of ethylenically unsaturated monomers;
- Claim 6 further specifies R as a specific linoleyl group;
- Claim 7 further specifies a specific R group derived from linoleyl alcohol;
- Claim 8 further specifies a particular alkoxy group;
- Claim 9 further specifies a particular alkoxy group;
- Claim 10 further specifies particular anionic groups;
- Claim 11 further specifies particular salts; and
- Claim 16 provides a method for preparing the aqueous dispersion of claim 1.

2. Claims of Present Application

Claim 14 of the present application is identical to the proposed Count. Of the remaining claims of the present application, claims 15-29 correspond to the proposed Count and alternative proposed Count in that they recite merely obvious variations of the invention of the proposed Count, for the same reasons as set forth above for the copied claims of the '030 patent. Claim 16 of the present application is identical to the alternative proposed Count.

Conclusion

All applicable requirements of 37 C.F.R. §1.607 having been met, it is respectfully requested that the above amendments be entered; that all claims be found allowable in this application; and that an interference be declared between the present application and Salter et al. U.S. Patent No. 6,590,030. Applicants are in the process of preparing the required showing under 37 C.F.R. §1.608 and shall submit it upon completion.

If any questions remain after consideration of this paper and the accompanying submissions, the Examiner is encouraged to call the undersigned attorney to expedite the prosecution of this application and declaration of the requested interference.

Respectfully submitted,

MAYER BROWN ROWE & MAW LLP

By: Paul L. Sharer by W. H. J. Henley ^{Reg. #} 36,160
Paul L. Sharer
Registration No. 36,004
Direct No. (202) 263-3340

Intellectual Property Group
1909 K Street, N.W.
Washington, D.C. 20006-1101
(202) 263-3000 Telephone
(202) 263-3300 Facsimile

Date: July 8, 2004
Attachment: U.S. Patent 6,590,030 to Salter et al.